

REFERENCE TITLE: firearms; restaurants

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

HB 2171

Introduced by
Representatives Antenori, Gowan, Stevens: Burges, Montenegro

AN ACT

AMENDING TITLE 4, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 4-229; AMENDING SECTION 4-244, ARIZONA REVISED STATUTES; RELATING TO LIQUOR LICENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 4, chapter 2, article 2, Arizona Revised Statutes, is
3 amended by adding section 4-229, to read:

4 4-229. Restaurant licenses; firearms; posting of notice

5 A LICENSEE WHO HOLDS A RESTAURANT LICENSE ISSUED PURSUANT TO SECTION
6 4-205.02 SHALL ALLOW THE POSSESSION OF A FIREARM ON THE LICENSED PREMISES IF
7 THE LICENSED PREMISES DERIVES MORE THAN FIFTY PER CENT OF ITS GROSS REVENUE
8 FROM THE SALE OF FOOD.

9 Sec. 2. Section 4-244, Arizona Revised Statutes, is amended to read:

10 4-244. Unlawful acts

11 It is unlawful:

12 1. For a person to buy for resale, sell or deal in spirituous liquors
13 in this state without first having procured a license duly issued by the
14 board.

15 2. For a person to sell or deal in alcohol for beverage purposes
16 without first complying with this title.

17 3. For a distiller, vintner, brewer or wholesaler knowingly to sell,
18 dispose of or give spirituous liquor to any person other than a licensee
19 except in sampling wares as may be necessary in the ordinary course of
20 business, except in donating spirituous liquor to a nonprofit organization
21 which has obtained a special event license for the purpose of charitable fund
22 raising activities or except in donating spirituous liquor with a cost to the
23 distiller, brewer or wholesaler of up to one hundred dollars in a calendar
24 year to an organization that is exempt from federal income taxes under
25 section 501(c) of the internal revenue code and not licensed under this
26 title.

27 4. For a distiller, vintner or brewer to require a wholesaler to offer
28 or grant a discount to a retailer, unless the discount has also been offered
29 and granted to the wholesaler by the distiller, vintner or brewer.

30 5. For a distiller, vintner or brewer to use a vehicle for trucking or
31 transportation of spirituous liquors unless there is affixed to both sides of
32 the vehicle a sign showing the name and address of the licensee and the type
33 and number of the person's license in letters not less than three and
34 one-half inches in height.

35 6. For a person to take or solicit orders for spirituous liquors
36 unless the person is a salesman or solicitor of a licensed wholesaler, a
37 salesman or solicitor of a distiller, brewer, vintner, importer or broker or
38 a registered retail agent.

39 7. For any retail licensee to purchase spirituous liquors from any
40 person other than a solicitor or salesman of a wholesaler licensed in this
41 state.

42 8. For a retailer to acquire an interest in property owned, occupied
43 or used by a wholesaler in his business, or in a license with respect to the
44 premises of the wholesaler.

1 9. Except as provided in paragraphs 10 and 11 of this section, for a
2 licensee or other person to sell, furnish, dispose of or give, or cause to be
3 sold, furnished, disposed of or given, to a person under the legal drinking
4 age or for a person under the legal drinking age to buy, receive, have in the
5 person's possession or consume spirituous liquor. This paragraph shall not
6 prohibit the employment by an off-sale retailer of persons who are at least
7 sixteen years of age to check out, if supervised by a person on the premises
8 who is at least nineteen years of age, package or carry merchandise,
9 including spirituous liquor, in unbroken packages, for the convenience of the
10 customer of the employer, if the employer sells primarily merchandise other
11 than spirituous liquor.

12 10. For a licensee to employ a person under ~~the age of~~ nineteen years
13 ~~OF AGE~~ to manufacture, sell or dispose of spirituous liquors. This paragraph
14 shall not prohibit the employment by an off-sale retailer of persons who are
15 at least sixteen years of age to check out, if supervised by a person on the
16 premises who is at least nineteen years of age, package or carry merchandise,
17 including spirituous liquor, in unbroken packages, for the convenience of the
18 customer of the employer, if the employer sells primarily merchandise other
19 than spirituous liquor.

20 11. For an on-sale retailer to employ a person under ~~the age of~~
21 nineteen years ~~OF AGE~~ in any capacity connected with the handling of
22 spirituous liquors. This paragraph does not prohibit the employment by an
23 on-sale retailer of a person under ~~the age of~~ nineteen years ~~OF AGE~~ who
24 cleans up the tables on the premises for reuse, removes dirty dishes, keeps a
25 ready supply of needed items and helps clean up the premises.

26 12. For a licensee, when engaged in waiting on or serving customers, to
27 consume spirituous liquor or for a licensee or on-duty employee to be on or
28 about the licensed premises while in an intoxicated or disorderly condition.

29 13. For an employee of a retail licensee, during that employee's
30 working hours or in connection with such employment, to give to or purchase
31 for any other person, accept a gift of, purchase for himself or consume
32 spirituous liquor, except that:

33 (a) An employee of a licensee, during that employee's working hours or
34 in connection with the employment, while the employee is not engaged in
35 waiting on or serving customers, may give spirituous liquor to or purchase
36 spirituous liquor for any other person.

37 (b) An employee of an on-sale retail licensee, during that employee's
38 working hours or in connection with the employment, while the employee is not
39 engaged in waiting on or serving customers, may taste samples of beer or wine
40 not to exceed four ounces per day or distilled spirits not to exceed two
41 ounces per day provided by an employee of a wholesaler or distributor who is
42 present at the time of the sampling.

43 (c) An employee of an on-sale retail licensee, under the supervision
44 of a manager as part of the employee's training and education, while not
45 engaged in waiting on or serving customers may taste samples of distilled

1 spirits not to exceed two ounces per educational session or beer or wine not
2 to exceed four ounces per educational session, and provided that a licensee
3 shall not have more than two educational sessions in any thirty day period.

4 (d) An unpaid volunteer who is a bona fide member of a club and who is
5 not engaged in waiting on or serving spirituous liquor to customers may
6 purchase for himself and consume spirituous liquor while participating in a
7 scheduled event at the club. An unpaid participant in a food competition may
8 purchase for himself and consume spirituous liquor while participating in the
9 food competition.

10 (e) An unpaid volunteer of a special event licensee under section
11 4-203.02 may purchase and consume spirituous liquor while not engaged in
12 waiting on or serving spirituous liquor to customers at the special
13 event. This subdivision does not apply to an unpaid volunteer whose
14 responsibilities include verification of a person's legal drinking age,
15 security or the operation of any vehicle or heavy machinery.

16 14. For a licensee or other person to serve, sell or furnish spirituous
17 liquor to a disorderly or obviously intoxicated person, or for a licensee or
18 employee of the licensee to allow or permit a disorderly or obviously
19 intoxicated person to come into or remain on or about the premises, except
20 that a licensee or an employee of the licensee may allow an obviously
21 intoxicated person to remain on the premises for a period of time of not to
22 exceed thirty minutes after the state of obvious intoxication is known or
23 should be known to the licensee in order that a nonintoxicated person may
24 transport the obviously intoxicated person from the premises. For the
25 purposes of this section, "obviously intoxicated" means inebriated to the
26 extent that a person's physical faculties are substantially impaired and the
27 impairment is shown by significantly uncoordinated physical action or
28 significant physical dysfunction that would have been obvious to a reasonable
29 person.

30 15. For an on-sale or off-sale retailer or an employee of such retailer
31 to sell, dispose of, deliver or give spirituous liquor to a person between
32 the hours of 2:00 a.m. and 6:00 a.m. on weekdays, and 2:00 a.m. and 10:00
33 a.m. on Sundays.

34 16. For a licensee or employee to knowingly permit any person on or
35 about the licensed premises to give or furnish any spirituous liquor to any
36 person under ~~the age of~~ twenty-one YEARS OF AGE or knowingly permit any
37 person under ~~the age of~~ twenty-one YEARS OF AGE to have in the person's
38 possession spirituous liquor on the licensed premises.

39 17. For an on-sale retailer or an employee of such retailer to allow a
40 person to consume or possess spirituous liquors on the premises between the
41 hours of 2:30 a.m. and 6:00 a.m. on weekdays, and 2:30 a.m. and 10:00 a.m. on
42 Sundays.

43 18. For an on-sale retailer to permit an employee or for an employee to
44 solicit or encourage others, directly or indirectly, to buy the employee's
45 drinks or anything of value in the licensed premises during the employee's

1 working hours. No on-sale retailer shall serve employees or allow a patron
2 of the establishment to give spirituous liquor to, purchase liquor for or
3 drink liquor with any employee during the employee's working hours.

4 19. For an off-sale retailer or employee to sell spirituous liquor
5 except in the original unbroken container, to permit spirituous liquor to be
6 consumed on the premises or to knowingly permit spirituous liquor to be
7 consumed on adjacent property under the licensee's exclusive control.

8 20. For a person to consume spirituous liquor in a public place,
9 thoroughfare or gathering. The license of a licensee permitting a violation
10 of this paragraph on the premises shall be subject to revocation. This
11 paragraph does not apply to the sale of spirituous liquors on the premises of
12 and by an on-sale retailer. This paragraph also does not apply to a person
13 consuming beer from a broken package in a public recreation area or on
14 private property with permission of the owner or lessor or on the walkways
15 surrounding such private property.

16 21. For a person to have possession of or to transport spirituous
17 liquor which is manufactured in a distillery, winery, brewery or rectifying
18 plant contrary to the laws of the United States and this state. Any property
19 used in transporting such spirituous liquor shall be forfeited to the state
20 and shall be seized and disposed of as provided in section 4-221.

21 22. For an on-sale retailer or employee to allow a person under the
22 legal drinking age to remain in an area on the licensed premises during those
23 hours in which its primary use is the sale, dispensing or consumption of
24 alcoholic beverages after the licensee, or the licensee's employees, know or
25 should have known that the person is under the legal drinking age. An
26 on-sale retailer may designate an area of the licensed premises as an area in
27 which spirituous liquor will not be sold or consumed for the purpose of
28 allowing underage persons on the premises if the designated area is separated
29 by a physical barrier and at no time will underage persons have access to the
30 area in which spirituous liquor is sold or consumed. A licensee or an
31 employee of a licensee may require a person who intends to enter a licensed
32 premises or a portion of a licensed premises where persons under the legal
33 drinking age are prohibited under this section to exhibit a written
34 instrument of identification that is acceptable under section 4-241 as a
35 condition of entry. The director, or a municipality, may adopt rules to
36 regulate the presence of underage persons on licensed premises provided the
37 rules adopted by a municipality are more stringent than those adopted by the
38 director. The rules adopted by the municipality shall be adopted by local
39 ordinance and shall not interfere with the licensee's ability to comply with
40 this paragraph. This paragraph does not apply:

41 (a) If the person under the legal drinking age is accompanied by a
42 spouse, parent or legal guardian of legal drinking age or is an on-duty
43 employee of the licensee.

1 (b) If the owner, lessee or occupant of the premises is a club as
2 defined in section 4-101, paragraph 7, subdivision (a) and the person under
3 the legal drinking age is any of the following:

4 (i) An active duty military service member.

5 (ii) A veteran.

6 (iii) A member of the United States army national guard or the United
7 States air national guard.

8 (iv) A member of the United States military reserve forces.

9 (c) To the area of the premises used primarily for the serving of food
10 during the hours when food is served.

11 23. For an on-sale retailer or employee to conduct drinking contests,
12 to sell or deliver to a person an unlimited number of spirituous liquor
13 beverages during any set period of time for a fixed price, to deliver more
14 than thirty-two ounces of beer, one liter of wine or four ounces of distilled
15 spirits in any spirituous liquor drink to one person at one time for that
16 person's consumption or to advertise any practice prohibited by this
17 paragraph.

18 24. For a licensee or employee to knowingly permit the unlawful
19 possession, use, sale or offer for sale of narcotics, dangerous drugs or
20 marijuana on the premises.

21 25. For a licensee or employee to knowingly permit prostitution or the
22 solicitation of prostitution on the premises.

23 26. For a licensee or employee to knowingly permit unlawful gambling on
24 the premises.

25 27. For a licensee or employee to knowingly permit trafficking or
26 attempted trafficking in stolen property on the premises.

27 28. For a licensee or employee to fail or refuse to make the premises
28 or records available for inspection and examination as provided in this title
29 or to comply with a lawful subpoena issued under this title.

30 29. For any person other than a peace officer, the licensee or an
31 employee of the licensee acting with the permission of the licensee to be in
32 possession of a firearm while on the licensed premises of an on-sale retailer
33 ~~knowing~~, OTHER THAN THE PREMISES OF A RESTAURANT LICENSEE THAT MEETS THE
34 REQUIREMENTS OF SECTION 4-229, IF THE PERSONS KNOWS such possession is
35 prohibited. This paragraph shall not be construed to include a situation in
36 which a person is on licensed premises for a limited time in order to seek
37 emergency aid and such person does not buy, receive, consume or possess
38 spirituous liquor. This paragraph shall not apply to hotel or motel guest
39 room accommodations nor to the exhibition or display of a firearm in
40 conjunction with a meeting, show, class or similar event.

41 30. For a licensee or employee to knowingly permit a person in
42 possession of a firearm other than a peace officer, the licensee or an
43 employee of the licensee acting with the permission of the licensee to remain
44 on the licensed premises, OTHER THAN THE PREMISES OF A RESTAURANT LICENSEE
45 THAT MEETS THE REQUIREMENTS OF SECTION 4-229 or to serve, sell or furnish

1 spirituous liquor to a person in possession of a firearm while on the
2 licensed premises of an on-sale retailer **OTHER THAN THE PREMISES OF A**
3 **RESTAURANT LICENSEE THAT MEETS THE REQUIREMENTS OF SECTION 4-229.** This
4 paragraph shall not apply to hotel or motel guest room accommodations nor to
5 the exhibition or display of a firearm in conjunction with a meeting, show,
6 class or similar event. It shall be a defense to action under this paragraph
7 if the licensee or employee requested assistance of a peace officer to remove
8 such person.

9 31. For a licensee or employee to knowingly permit spirituous liquor to
10 be removed from the licensed premises, except in the original unbroken
11 package. This paragraph shall not apply to either of the following:

12 (a) A person who removes a bottle of wine which has been partially
13 consumed in conjunction with a purchased meal from licensed premises if a
14 cork is inserted flush with the top of the bottle or the bottle is otherwise
15 securely closed.

16 (b) A person who is in licensed premises that have noncontiguous
17 portions that are separated by a public or private walkway or driveway and
18 who takes spirituous liquor from one portion of the licensed premises across
19 the public or private walkway **OR DRIVEWAY** directly to the other portion of
20 the licensed premises.

21 32. For a person who is obviously intoxicated to buy or attempt to buy
22 spirituous liquor from a licensee or employee of a licensee or to consume
23 spirituous liquor on licensed premises.

24 33. For a person under ~~the age of~~ twenty-one years **OF AGE** to drive or
25 be in physical control of a motor vehicle while there is any spirituous
26 liquor in the person's body.

27 34. For a person under ~~the age of~~ twenty-one years **OF AGE** to operate or
28 be in physical control of a motorized watercraft that is underway while there
29 is any spirituous liquor in the person's body. For the purposes of this
30 paragraph, "underway" has the same meaning prescribed in section 5-301.

31 35. For a licensee, manager, employee or controlling person to
32 purposely induce a voter, by means of alcohol, to vote or abstain from voting
33 for or against a particular candidate or issue on an election day.

34 36. For a licensee to fail to report an occurrence of an act of
35 violence to either the department or a law enforcement agency.

36 37. For a licensee to use a vending machine for the purpose of
37 dispensing spirituous liquor.

38 38. For a licensee to offer for sale a wine carrying a label including
39 a reference to Arizona or any Arizona city, town or geographic location
40 unless at least seventy-five per cent by volume of the grapes used in making
41 the wine were grown in Arizona.

42 39. For a retailer to knowingly allow a customer to bring spirituous
43 liquor onto the licensed premises, except that an on-sale retailer may allow
44 a wine and food club to bring wine onto the premises for consumption by the
45 club's members and guests of the club's members in conjunction with meals

1 purchased at a meeting of the club that is conducted on the premises and that
2 at least seven members attend. An on-sale retailer who allows wine and food
3 clubs to bring wine onto its premises under this paragraph shall comply with
4 all applicable provisions of this title and any rules adopted pursuant to
5 this title to the same extent as if the on-sale retailer had sold the wine to
6 the members of the club and their guests. For the purposes of this
7 paragraph, "wine and food club" means an association that has more than
8 twenty bona fide members paying at least six dollars per year in dues and
9 that has been in existence for at least one year.

10 40. For a person under ~~the age of~~ twenty-one years ~~OF AGE~~ to have in
11 the person's body any spirituous liquor. In a prosecution for a violation of
12 this paragraph:

13 (a) Pursuant to section 4-249, it is a defense that the spirituous
14 liquor was consumed in connection with the bona fide practice of a religious
15 belief or as an integral part of a religious exercise and in a manner not
16 dangerous to public health or safety.

17 (b) Pursuant to section 4-226, it is a defense that the spirituous
18 liquor was consumed for a bona fide medicinal purpose and in a manner not
19 dangerous to public health or safety.

20 ~~41.~~ 39. For an employee of a licensee to accept any gratuity,
21 compensation, remuneration or consideration of any kind to either:

22 (a) Permit a person who is under twenty-one years of age to enter any
23 portion of the premises where that person is prohibited from entering
24 pursuant to paragraph 22 of this section.

25 (b) Sell, furnish, dispose of or give spirituous liquor to a person
26 who is under twenty-one years of age.

27 42. For a person to purchase, offer for sale or use any device, machine
28 or process which mixes spirituous liquor with pure oxygen or another gas to
29 produce a vaporized product for the purpose of consumption by inhalation.

30 43. For a retail licensee or an employee of a retail licensee to sell
31 spirituous liquor to a person if the retail licensee or employee knows the
32 person intends to resell the spirituous liquor.